

REMARKS

By this Amendment, applicants have amended claims 1, 5 and 6 to recite that ratio of fatty acid to total soap is greater than or equal to 0.15 rather than 0.06 (supported, for example, by Examples 1, 3 and 4 at page 12 of the specification); and that ratio of filler to total soap is greater to or equal to 0.3 rather than 0.2 (supported, for example, by Example 3 at page 12 of the specification).

As discussed in more detail below, the Chambers et al. reference does not disclose, nor certainly does it suggest the criticality of maintaining both high ratio free fatty acid (FFA) to total fatty matter (e.g., for enhanced lather) and high ratio of filler to total fatty matter (e.g., for opacity levels about same or even higher (more opaque) than control bar; note that lower opacity numbers in the examples are associated with higher opacity and the higher opacity is consumer desirable because it provides appearance of rich, "creamy" lather). That is, it is only the combination of high enough ratio FFA to total fatty matter (TFM) and high enough ratio of filler to TFM which yields bars which both lather well and provide opaque, creamy look.

In the Office Action, the Examiner has cited U.S. Patent No. 6,242,399 to Chambers as disclosing bars comprising fatty acid soap, free fatty acid, optional filler and water. Specifically, the Examiner directs applicants' attention to Example 3 which is the only example where filler (e. g., 20% talc) is actually disclosed.

First, applicants note that Chambers does not require that both (1) ratio of free fatty acid to TFM be equal to or greater than 0.15 (as amended); and (2) ratio of filler to TFM be equal to or greater than 0.3. Indeed ratio of FFA to total fatty matter could be 3 to 63 (e.g., 3% fatty acid and 60% soap) or 0.0476, and filler could be absent altogether (0% to 30% filler). Generally, the lower ratio of free fatty acid to TFM would produce bars which do not lather very well (see Comparative A at page 12-13 when no FFA is used). Further, as applicants have noted in the specification, the person of ordinary skill

in the art would not be inclined to increase levels of free fatty acid because the bar could well become unprocessable (see page 1, lines 24-26 of the specification).

In addition, a bar with no filler would ensure that high free fatty acid bars would be unprocessable (since there was no teaching prior to the subject invention that high filler could counteract effect of high free fatty acid) yet, in the presence of only smaller amounts of filler that the person of ordinary skill in the art would feel comfortable using, the bars would tend to be less opaque, i.e., less creamy looking (see Examples 2 and 3 versus Examples 1 and 4).

In short, the crux of the subject invention is the very delicate balancing between ratio of FFA to TFM and ratio of filler to TFM. It is only when both these are delicately balanced that there is achieved bars which are processable, lather well and have an opaque, creamy appearance. The Chambers reference fails to recognize these criticalities and offers many, if not all, possible bar ranges where the benefits of the subject invention would not be obtained.

With regard to the specific Example 3 in Chambers, applicants note that ratio of FFA (coconut fatty acid) to TFM would be 6.8 to 66.9 or about 0.1 (above 0.06 of original claims) and ratio of filler to TFM of 20 to 66.9 or about .298.

First, applicants note that the ratio of FFA to TFM in the reference (0.1) is now outside the range of the amended claims (now 0.15). For reasons noted, there would be no incentive for Chambers to raise the level of fatty acid much higher while simultaneously raising level of filler (note that filler is used only at the lowest level of free fatty acid in Example 1-5) because of fear of forming crumbly bars. Further, where filler to TFM ratio is not even higher (Example 3 versus Examples 1 and 4 at pages 12-13), the bars will not obtain desirable opaque, creamy-looking appearance. In our invention, the opacity is marginal perhaps at the lowest 0.3 ratio of filler to TFM (see Example 3), but we have added benefit of higher free fatty acid to TFM ratio which we demonstrated gives enhanced lather. There is clearly no motivation in Chambers to

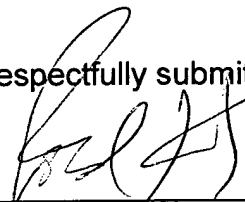
have approached simultaneously our high ratio of FFA to TFM and high ratio of filler to TFM.

In summary, in our invention we have established clear novelty (in two ratios), and we have shown that both ratios offer their own criticalities in obtaining a delicately balanced bar. Further, for reasons noted, there is no motivation to have both ratios at these levels simultaneously. It was only after applicants showed the benefit of simultaneously high ratios that they can now be seen. Of course, such hindsight observation is prohibited by the patent laws.

In view of the amendments and discussion above, it is respectfully requested that the Examiner withdraw all rejections of the claims and that claims, as amended, now be allowed.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,



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